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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/731,191	12/06/2000	Alberto Lee Bigio	6772-1 CIP	8589

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EXAMINER

SPISICH, MARK

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 03/28/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

9

Office Action Summary

Applicati n No.

09/731,191

Applicant(s)

BIGIO, ALBERTO LEE

Examin r

Mark Spisich

Art Unit

1744

-- Th MAILING DATE f this communication appears on the cover sheet with th correspond nce address --
Period f r Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/451,747.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by UK 17,666. '666 discloses, in the embodiment of fig 6a, a brush comprising an elongated handle segment and a bristle substrate on a common axial centerline, the bristle substrate defining a cylindrical core segment with a smoothly curved concave central region and radially larger end regions and a plurality of bristles of various lengths such that they define a cylindrical shape (again see fig 6a as well as page 4, lines 26-28).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over UK 17,666 in view of Tobias (USP D424,303). Although '66 would seem to at least suggest the bristles bundle arrangement of claim 2, the patent to Tobias is further cited to show a brush of the type of '666 which discloses the recited bristle bundle row arrangement of claim 2. It would have been obvious to one of ordinary skill to have

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modified the brush of '666 as it is shown by the prior art to be a known bristle arrangement. '666 discloses numerous handle shapes, including a cylindrical shape (claim 3) with a continuously curved convex regions having radially smaller handle end regions (claim 4) (see fig 8a). One of ordinary skill would deem it obvious to utilize any of the handles of '666 based on user preference.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over UK 17,666 in view of Flom (USP 3,691,585). '666 discloses the invention substantially as claimed with the exception of the "individual" bristles. Although it is not as common in the art of toothbrushes, it is nonetheless known to use "individual" bristles on a toothbrush (as is taught by the patent to Flom. It would have been obvious to one of ordinary skill to have modified the prior art as such so as to reduce a manufacturing step.

6. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weber (USP D 118,422) in view of UK 630,648. The patent to Weber discloses a hair brush comprising an elongated member having a handle segment and a bristle substrate on a common axial centerline, the bristle substrate comprising an elongated generally rectangular core segment (see fig 3) which defines a smoothly curved bristle-supporting surface (see fig 2) and a plurality of bristles of varying lengths attached to the core segment such that they define an arcuate segment of a cylindrical shape (see figs 2 and 3). Although the patent to Weber discloses a same type of bristle-supporting surface, it fails to disclose the "dimensionally larger end regions". '648 discloses a bristle mounting surface which is smoothly curved and (by virtue of the back of the core

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segment (2) being flat) which has dimensionally larger end regions. It would have been obvious to one of ordinary skill to have modified the brush of Weber as such as it would be an obvious change in the mere appearance or shape of the core segment. The patent to Weber discloses the bristle arrangement of claim 7.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 6 above, and further in view of Glasberg (USP D292,850). The prior art discloses the invention substantially as claimed with the exception of the "individual" bristles. Such bristles are well known in the art of hairbrushes (see the patent to Glasberg) and one of ordinary skill would deem it obvious to modified the brush of Weber as such so as to produce more of a combing effect on the hair.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited patents are each pertinent to brushes with a smoothly curved bristle-mounting surface as well as bristles which define a planar shape.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (703) 308-1271. The examiner can normally be reached on M-Th (6-3:30), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J Warden can be reached on (703) 308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Mark Spisich
Primary Examiner
Art Unit 1744

MS
March 24, 2003